

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 5508	DATE	10/9/2001
CASE TITLE	Gale Drake vs. Fieldstone Mortgage Co. et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Memorandum Opinion and Order

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order. Plaintiff moves to remand. That motion is granted.


- (11) ☒ [For further detail see order attached to the original minute order.]

No notices required, advised in open court.	<div style="text-align: center;"> <p>10/10/2001</p> <p>IN DOCKETING</p> <p>OCT 10 AM 8:57</p> </div>	number of notices	<div style="text-align: center;"> <p>OCT 10 2001</p> <p>date docketed</p> <p><i>MW</i></p> <p>docketing deputy initials</p> <p>date mailed notice</p> <p>mailing deputy initials</p> </div>	Document Number
No notices required.				
Notices mailed by judge's staff.				
Notified counsel by telephone.				
Docketing to mail notices.				
<input checked="" type="checkbox"/> Mail AO 450 form.				23
<input type="checkbox"/> Copy to judge/magistrate judge.				
WAH	courtroom deputy's initials	Date/time received in central Clerk's Office		

provide a basis for removal. But even if we assumed that the interpretation of the federal statutes would have provided a basis, the removal would still be improper. Plaintiff did not allege he was purchasing the property for residential use. Indeed, a rider which we are led to believe was one of the exhibits attached to the complaint specifically deletes any requirements of occupancy, requires the borrower to maintain insurance against rent loss, and assigns all rents to the lender. Further, purchase for investment does not foreclose reliance upon CFA. Purchase for investment is a use by plaintiff, it is not for resale. There just was not a sufficient basis for removal.

We note, as well, that this case would have ended up in state court in any event. At most, it would have remained there only briefly, until the purported federal claims were dismissed. The case would then, beyond dispute, be solely state claims, which would be remanded or dismissed without prejudice to their being pursued in state court.

Oct. 9, 2001.


JAMES B. MORAN
Senior Judge, U. S. District Court